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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,599	09/15/2003	Bruce L. Kennedy	02580-P0085B	2356
24126	7590	03/17/2006	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			SMITH, PHILIP ROBERT	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/662,599	Applicant(s) KENNEDY, BRUCE L.	
	Examiner Philip R. Smith	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2006.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
4a) Of the above claim(s) 1-18 and 32-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-31 and 46-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

- [01] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- [02] Claims 19-27, 29-31 & 46-47 are rejected under 35 U.S.C. 102(a) as being anticipated by Winkler (6411851), substantially for the reasons set forth in the Office action of 6/9/2005.
- [03] With regard to claim 19: A touch screen inherently generates an image stream for display. The touch screen disclosed by Winkler composes "a medical video instrument having touch screen control." The medical video instrument disclosed by Winkler therefore generates an image stream for display on said touch screen.

Claim Rejections - 35 USC § 103

- [04] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- [05] Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winkler in view of Adair and Bodicker, for the reasons set forth in the Office action of 6/9/2005.
- [06] Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winkler in view of Kohls (6520910).
- [07] Winkler discloses the entirety of claim 19, as noted above. Winkler further discloses a storage ("ROM 70," 5/59) which composes the medical video

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instrument.

[08] Winkler does not disclose that the storage is for storing an image stream.

[09] Kohls discloses the following in 1/12-29:

Modern medical practice involves monitoring a variety of physiological activity. In electrocardiography and other types of patient monitoring, current data is often compared to historical data in order to observe the trends and changes in the data. As can be appreciated, the amount of data collected in monitoring activities can be very large. For example, in ambulatory ECG monitoring, changes in QRS waves are identified by visually comparing current and previous measurements. With current technology, the QRS data must be stored locally at a computer or workstation. The amount of data acquired is generally on the order of 40MB or more. The amount of time required to transfer this amount of data from the acquisition device to the analysis workstation makes historical comparisons impractical, except with very fast (and, therefore, expensive) data links and high performance workstations.

[10] At the time of the invention, it would have been obvious to a person of ordinary skill in the art that Winkler's storage be used to store the image stream generated by Winkler's medical video instrument. A skilled artisan would be motivated to do so in order to "visually compar[e] current and previous measurements." As noted by Kohls, "[i]n electrocardiography and other types of patient monitoring, current data is often compared to historical data in order to observe the trends and changes in the data."

Response to Arguments

[11] Applicant's arguments filed 2/9/2006 have been fully considered but they are not persuasive.

[12] Applicant asserts that "the magnetic programming head [disclosed by the '851 patent] does not generate an image stream as required by Claim 19." However, Applicant does not recite a magnetic programming head which generates an

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image stream.

[13] Applicant asserts that "there is no video stream or feed from the implantable medical device [disclosed by the '851 patent], nor can the IMD be modified to provide a video feed." Again, Applicant does not recite an IMD which provides a video feed.

[14] Applicant finally contends that "[n]owhere does the '851 patent teach, disclose or suggest that a video stream is displayed on either the touch screen or on any other screen." As noted above, touch screens inherently display a video stream; display of a video stream is one of the necessary functions of a touch screen.

Conclusion

[15] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.

[16] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.

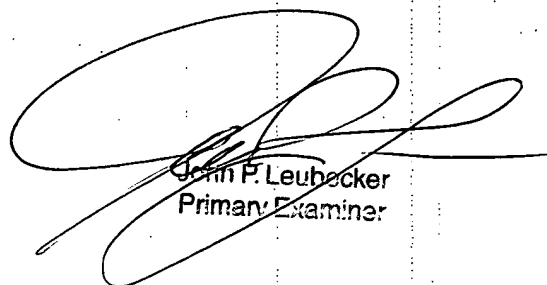
[17] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the
Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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[18] prs



John P. Leubecker
Primary Examiner